



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE, ROOM 411  
BOSTON, MASSACHUSETTS 02108  
(617) 727-8352  
(800) 462-OCPPF

MARY F. McTIGUE  
DIRECTOR

March 22, 1993  
AO-93-08

Mary Jane Cratty  
Committee to Elect Robert T. Markel  
82 Pineywoods Avenue  
Springfield, MA 01108

Re: Campaign Volunteer's Legal Expenses

Dear Ms. Cratty:

This letter is in response to your December 28, 1992, letter requesting an advisory opinion regarding whether the Committee to Elect Robert T. Markel ("Committee"), a political committee, may pay for certain legal expenses incurred by one of the Committee's volunteers.

You have stated that a Committee volunteer was asked to drop off literature in Springfield on behalf of Mr. Markel. During the drop the volunteer became involved in an altercation with a resident of the neighborhood. In a subsequent telephone conversation with this office's staff attorney, Marissa Horowitz, you indicated that the volunteer had a personal relationship with the resident, which was somewhat antagonistic, prior to the drop. During the drop the volunteer placed a pamphlet, on or near a sign which supported Mr. Markel's political campaign opponent. The sign was located on the resident's property. Apparently the placement of the pamphlet annoyed or angered the resident and the subsequent altercation ensued.

After the altercation, the volunteer filed a civil suit against the resident for assault and battery. The suit was recently dismissed. The volunteer's legal expenses amounted to over two thousand (\$2,000) dollars. Mr. Markel has agreed to pay personally half of the legal expenses and would like to know if this amount can be reimbursed or directly paid from Mr. Markel's political campaign funds.

M.G.L. c.55, s.6 provides, in pertinent part,  
that political committees such as yours may make expenditures:

. . . for the enhancement of the political future of the  
candidate or the principle, for which the committee was so

organized so long as such expenditure is not primarily for the candidate's or any other person's personal use . . . (emphasis added).

In addition, regulations promulgated by this office, in accordance with the law, deal more specifically with the issue you have raised. 970 CMR 2.06 (6)(a)(3)(c) provides, in relevant part, that committees such as yours are prohibited from making expenditures for civil suits with a few limited exceptions. Specifically, these regulations provide that expenditures prohibited under the personal use section include any "expenses relative to civil suits or administrative proceedings . . . ." There are three exceptions to the general rule, only one of which is arguably applicable. The pertinent subparagraph provides that this prohibition shall not apply to:

- (c) expenses relative to necessary legal action to protect or further the interest of the political committee (emphasis added).

The facts of this case indicate that the initiation of the civil suit for assault and battery by the volunteer was personal in nature. First, the volunteer and the resident had a personal and somewhat antagonistic relationship before the altercation. Thus, the altercation stemmed, in part, from the prior history between the two parties. Next, while the volunteer may have been instructed to distribute campaign literature on behalf of Mr. Markel, the volunteer was not authorized to obstruct Mr. Markel's opponent's campaign sign and, therefore, was not acting on behalf of a candidate in doing so. Finally, the civil suit does not fall within exception (c) since it was not necessary to protect the interests of the political committee. By way of example, compare AO-85-16 (candidate's committee may defray legal expenses incurred in defamation action by candidate if action concerns candidate's reputation and, therefore, political future) and AO-90-21 (candidate's committee may reimburse candidate for legal expenses resulting from libel action involving candidate's reputation).

In conclusion, it is this office's opinion that the civil suit instituted by the volunteer is personal and not a necessary legal expense which will protect or further the interest of the Committee. Therefore, M.G.L. c.55, s.6 and the regulations promulgated thereto prohibit the Committee to Elect Robert T. Markel from making any expenditures to pay the legal costs incurred by the volunteer in this matter.<sup>1</sup>

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1. Campaign finance law does not, however, prevent Mr. Markel from paying personally for the volunteer's legal expenses if he so wishes.

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This opinion has been rendered solely on the basis of the representations made in your letter as well as a subsequent telephone conversation with this office's legal counsel and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this office should you have additional questions about this or any other campaign finance matter.

Very truly yours

A handwritten signature in cursive script, appearing to read "Mary F. McTigue".

Mary F. McTigue  
Director